

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

January 19, 2012

In the Matter of L. L. W. PORTER, Minor.

No. 304579

Wayne Circuit Court

Family Division

LC No. 09-491086

Before: GLEICHER, P.J., and CAVANAGH and O'CONNELL, JJ.

MEMORANDUM.

Respondent appeals by right the circuit court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent does not contest the trial court's findings regarding the statutory grounds for termination or the child's best interests. Her sole claim on appeal is that petitioner violated its statutory duty to make reasonable efforts to reunify her with her child. Because respondent did not raise this issue below or otherwise challenge the adequacy of services offered, this issue has not been preserved for appeal. *People v Metamora Water Serv, Inc*, 276 Mich App 376, 382; 741 NW2d 61 (2007). Therefore, our review "is limited to determining whether a plain error occurred that affected substantial rights." *In re Egbert R Smith Trust*, 274 Mich App 283, 285; 731 NW2d 810 (2007), *aff'd* 480 Mich 19 (2008).

"Reasonable efforts to reunify the child and family must be made in all cases" except those cases involving exceptional circumstances not present here. MCL 712A.19a(2). If a respondent is available and willing and able to accept services designed to rectify the problems that led to the child becoming a temporary court ward, the petitioner's failure or refusal to provide such services can preclude a finding that the respondent was unlikely to rectify the conditions that led to the adjudication or to be able to provide proper care and custody within a reasonable time. *In re Newman*, 189 Mich App 61, 66-68; 472 NW2d 38 (1991). However, a court may terminate a respondent's parental rights if the respondent has failed to benefit from services offered. See, e.g., *In re Plump*, ___ Mich App ___, ___; ___ NW2d ___ (Docket No. 302995, issued October 11, 2011), slip op p 2.

Respondent was unable to care for herself or her child, due primarily to her mental illness and, to a lesser extent, her substance abuse. The evidence presented at the hearing showed that petitioner offered referrals for services to address these issues. Respondent was evaluated at the Clinic for Child Study, she was referred for psychological and psychiatric evaluations to assess her needs, and she was then referred to various agencies for counseling and psychiatric care.

Respondent's compliance with counseling was limited because she frequently moved in and out of the county. Consequently, her psychosis was never controlled well enough to assure the child's safety in respondent's care, and reunification could not be achieved.

The evidence showed that petitioner made reasonable efforts to reunify the family through the provision of services to address respondent's needs, but respondent did not benefit from those services. A lack of cooperation on respondent's part does not constitute a failure to make reasonable efforts to reunify the family through the provision of services on petitioner's part. *Plump*, slip op p 2. Therefore, respondent has not shown plain error.

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ Mark J. Cavanagh
/s/ Peter D. O'Connell